

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

East Coast Sheet Metal Fabricating
Corp., d/b/a East Coast CAD/CAM

v.

Civil No. 12-cv-517-JL

Autodesk, Inc.

SUMMARY ORDER

The defendant has moved to dismiss the plaintiff's second amended complaint, arguing--incorrectly--that the plaintiff must "factually prove" its standing to sue. But in considering a motion to dismiss for lack of standing under [Rule 12\(b\)\(1\)](#), this court must "accept as true all well-pleaded factual averments in the plaintiff's complaint and indulge all reasonable inferences therefrom in his favor." [Katz v. Pershing, LLC](#), 672 F.3d 64, 70 (1st Cir. 2012) (alterations omitted). "[A] suit will not be dismissed for lack of standing if there are sufficient allegations of fact--not proof--in the complaint or supporting affidavits," [Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Found., Inc.](#), 484 U.S. 49, 65 (1987) (internal quotation marks omitted; emphasis added), although a defendant may challenge the plaintiff's standing through another procedural mechanism, see id. at 65-66. Plaintiff has met its burden, and need not respond to the motion to dismiss (document no. 28), which is DENIED.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: June 11, 2013

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